

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:19-cv-321-MOC-WCM**

|                                   |   |                     |
|-----------------------------------|---|---------------------|
| <b>ROBERT V. WILKIE,</b>          | ) |                     |
|                                   | ) |                     |
| <b>Plaintiff,</b>                 | ) |                     |
|                                   | ) |                     |
| <b>vs.</b>                        | ) | <b><u>ORDER</u></b> |
|                                   | ) |                     |
| <b>UNITED STATES OF AMERICA</b>   | ) |                     |
| (THE HONORABLE MARTIN             | ) |                     |
| <b>REIDINGER, IN HIS OFFICIAL</b> | ) |                     |
| <b>CAPACITY),</b>                 | ) |                     |
|                                   | ) |                     |
| <b>Defendant.</b>                 | ) |                     |
|                                   | ) |                     |

**THIS MATTER** is before the Court on its own motion following the filing of a Motion to Dismiss Plaintiff's Amended Complaint, by Defendant United States of America, (Doc. No. 8), on January 10, 2020.

In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Court advises Plaintiff, who is proceeding pro se, that he has a right to respond to Defendant's motion.<sup>1</sup> The Court also advises Plaintiff that failure to respond may result in Defendant being granted the

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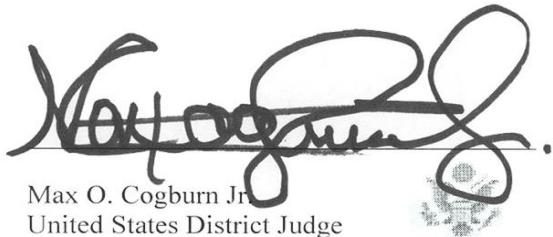
<sup>1</sup> The Fourth Circuit did not hold in Roseboro that such notice is required for motions to dismiss. Rather, the Fourth Circuit's discussion in Roseboro regarding notice was directed to summary judgment motions. See Roseboro v. Garrison, 528 F.2d 309, 310 (4th Cir. 1975) ("We agree with the plaintiff, however, that there is another side to the coin which requires that the plaintiff be advised of his right to file counter-affidavits or other responsive material and alerted to the fact that his failure to so respond might result in the entry of summary judgment against him."); see also Norman v. Taylor, 25 F.3d 1259, 1261 (4th Cir. 1994) ("In Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), this circuit held that pro se plaintiffs must be advised that their failure to file responsive material when a defendant moves for summary judgment may well result in entry of summary judgment against them."). Nevertheless, courts routinely issue Roseboro notices for motions to dismiss, and the Court does so here.

relief Defendant seeks.

**IT IS, THEREFORE, ORDERED** that:

1. Plaintiff shall respond to the pending Motion to Dismiss, (Doc. No. 8), within 14 days of service of this Order. Failure to file a timely response will likely lead to dismissal of the claims against Defendant.

Signed: January 13, 2020



A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", is written over a horizontal line. To the right of the signature is a small, circular, textured seal or stamp.

Max O. Cogburn Jr.  
United States District Judge